

**DRAFT AGENDA
Board of Governors
September 11-12 2009
Chula Vista
Wisconsin Dells, WI
Noon**

A. ORGANIZATIONAL

1. Board Orientation

All new Board members are requested to attend this orientation. Returning members are encouraged to attend. The meeting will begin immediately after the conclusion of the orientation.

2. Roll Call

3. Approval of September 11-12, 2009 Agenda

4. Appointment of District 2 Governor to Replace Governor Brennan

District 2 governors will recommend a Milwaukee attorney to complete the term held by Board Chairperson Brennan when he was appointed Chairperson of the Board of Governors. *(Simple majority for approval)*

5. Approval of June 26, 2009 Minutes (Attachment A)

6. Presidents' Reports (President Kammer, President-elect Boll, and Past President Diel) (Attachment B)

Attached is a copy of the August 28, 2009 Executive Committee Actions Taken Memo previously distributed via email to the Board.

B. DISCUSSION ITEMS

1. Proposed Social Networking Policy (Attachment C)

Social networking through various technologies is rapidly becoming a significant form of communication in society. Services such as Facebook, LinkedIn, and Twitter have moved from the interesting and amusing to become significant resources for information

in many aspects of our lives. The State Bar and the practice of law are not immune from these forces. In order to implement these opportunities across the organization, administration is recommending the creation of usage policies, just as we have for email and listservs. Attached is a proposed policy for your consideration and approval.

2. **Supreme Court Petition 09-01, regarding proposed amendments to Wis. Stats. 802.10, 804.08, 804.9, 804.12, and 805.7. (Attachment D)**

Attached is the Wisconsin Judicial Council's petition regarding electronic discovery. It is expected that the Court will schedule this for public hearing sometime this winter or spring. The petition has been referred to various sections for review and recommendation

3. **Tax Status of the State Bar**

The Board will move into closed session to discuss the tax status of the State Bar.

C. **CONSENT AGENDA**

Article III, Section 9 – State Bar Bylaws – “At any regular or special meeting, any business placed on a consent agenda that is part of the notice or call will be acted upon without debate. Business listed on the consent agenda may be removed by any one governor within a 72-hour notice to the Secretary of the State Bar of Wisconsin.” (Simple majority required for approval)

D. **ACTION ITEMS**

1. **Supreme Court Order 09-02, in the matter of the petition to amend Supreme Court Rule 72.01 regarding record retention (Attachment E)**

The Director of State Courts petitions the Supreme Court to bring SCR 72.01 in line with statutory changes since the last major revision to the rule in 1997. The Supreme Court has ordered a public hearing on the petition for November 2, 2009. This petition has been referred to various sections for review and possible recommendation. It is expected that the Court will dispose of this petition before hearing the State Bar's petition on Chapter 72 (see below). If the Board wishes to take a position on this petition, it will need to do so at the September Board meeting. Attached is a copy of the petition and a response received from the Family Law Section. *(60% majority for approval)*

2. **Supreme Court Order 09-03, in the matter of the petition relating to the submission of evidence originating in a language other than English (Attachment F)**

The Director of State Courts petitions the Supreme Court to create language that deals with the increase in material submitted to the various courts in the state. The Supreme Court has ordered a public hearing on the petition for November 2, 2009. This petition has been referred to various sections for review and possible recommendation. If the Board wishes to take a position on this petition, it will need to do so at the September Board meeting. Attached is a copy of the petition. *(60% majority for approval)*

3. **Supreme Court Order 09-05, in the matter of the petition to amend SCR 71.01 regarding required reporting of court proceedings. (Attachment G)**

The Director of State Courts petitions the Supreme Court to amend the rules governing the reporting of audio recordings in court proceedings. The Supreme Court has ordered a public hearing on the petition for October 29, 2009. This petition has been referred to various sections for review and possible recommendation. If the Board wishes to take a position on this petition, it will need to do so at the September Board meeting. Attached is a copy of the petition. *(60% majority for approval)*

4. **Approval of Nomination Committee**

President Kammer requests Board approval of his appointment of members of the Nomination Committee for the April 2010 election. *(Simple majority for approval)*

E. REPORTS

1. **Strategic Planning Committee Report**

2. **Finance Committee Report (Attachment H)**

Attached are the most recent financials.

3. **Judicial Independence Committee Report**

At the May 2009 meeting, the Board of Governors directed then-President Diel to appoint a committee to evaluate the numerous issues currently pending regarding judicial elections and recusal. President Diel appointed a committee of members of the Board that is chaired by Governor Schober of Green Bay. Governor Schober will report on the progress made by the committee to date.

4. **State Bar Strategic Communications (Attachment I)**

At the June Executive Committee meeting, State Bar Marketing Director Jan Wood briefed the committee on recent activities designed to improve State Bar communications by creating a stronger, more clearly integrated and articulated message to members and the public. The Executive Committee requested that State Bar administration brief the Board on this effort.

5. **Committee Reports (Attachment J)**

President Kammer has requested that each State Bar committee provide a brief written report of activities undertaken since the previous Board meeting. Those reports are included with this Board packet.

6. **Executive Director Report**

7. **Legislative Report**

F. INFORMATIONAL REPORTS

1. Supreme Court Petition to Amend State Bar Rules (Attachment K)

In late August, Atty. Steve Levine on behalf of himself and 42 others filed a petition in the Wisconsin Supreme Court to amend the State Bar rules to effect the same result he, Jon Kingstad, and Jim Thiel were seeking in their petition for original action before the Wisconsin Supreme Court, which was denied, and in their lawsuit currently pending in the U.S. District Court for the Western District of Wisconsin. At this time, the Supreme Court has tentatively scheduled a hearing on this petition for April 27, 2010, beginning at 2 PM. No order will be issued for several months because the date and time may change.

2. Supreme Court Order 08-23, In the Matter of the Petition to create Supreme Court Rule 31.01 and amend SCR 31.03 Relating to the Electronic Filing of Continuing Legal Education Reports (Attachment L)

The Supreme Court has set a public hearing for September 10, 2009, on this proposed rule. To date, the Board has not addressed this petition. Because the public hearing will occur before the September Board meeting, the Executive Committee considered this issue and voted unanimously to send a letter of support to the Wisconsin Supreme Court that also included discussion of the challenges members faced this year with the current electronic filing system. A copy of the order, petition, and related correspondence is attached. President Kammer's letter to the Court will be distributed at the meeting.

3. Supreme Court Orders 08-16 and 08-25, in the matter of amendment of the Code of Judicial Conduct's rules of recusal (Attachment M)

Attached for your information is the Supreme Court order setting the public hearing date for the various recusal petitions before the Court for October 28, 2009. These petitions are being evaluated by the Judicial Independence Committee created by the Board of Governors at its May 2009 meeting.

4. Red Flag Rule (Attachment N)

At its June 26, 2009 meeting, the Board of Governors unanimously approved a motion to approve the resolution of the ABA opposing the inclusion of lawyers under the FTC proposed red flag rule. Attached for your information is a copy of the letter sent by then President Diel to FTC Chairman Leibowitz and his response. In late July, the FTC delayed the implementation date of the proposed red flag rule until November 2009.

5. State Bar Petition to Modify Chapter 72 of the Wisconsin Supreme Court Rules (Attachment O)

At its June 2009 meeting, the Board of Governors unanimously approved the request of the Criminal Law Section and the Individual Rights and Responsibilities Section to petition the Wisconsin Supreme Court to revise SCR Chapter 72. A copy of that petition as submitted to the Court is attached for your information.

6. **Supreme Court Order 08-27, in the matter of the petition to amend Supreme Court Rule 10.03(3) relating to classes of membership in the State Bar (Attachment P)**
At its September 2008 meeting, the Board of Governors unanimously approved the petition of the Bar Membership Categories Committee to change the State Bar rules regarding classes of membership. That committee was established by then President Basting in response to a request from the Wisconsin Supreme Court to recommend changes in light of a petition by the federal administrative law judges to clarify the membership rules regarding their status as judges. That petition is now scheduled for public hearing before the Wisconsin Supreme Court for October 29, 2009. Attached is a copy of that order, the petition, and attendant correspondence for your information.
7. **Supreme Court Order 08-28, in the matter to create procedures for lawyer support and monitoring and procedures for referrals from the Office of Lawyer Regulation (Attachment Q)**
At its December 2008 meeting, the Board of Governors voted by a greater than 60 percent majority, with one vote against, to support the petition of the Wisconsin Lawyer Assistance Program Committee in conjunction with the Office of Lawyer Regulation to establish a monitoring program for lawyers in need of services. The Supreme Court has set a public hearing for this petition on October 29, 2009. In conjunction, the Supreme Court will discuss in open administrative conference following that public hearing the above petition and 08-13, the BBE petition for conditional admission. The Board of Governors supports 08-13 but only with the addition of language dealing with confidentiality. This petition was held in abeyance by the Supreme Court in an order dated August 3, 2009, pending the public hearing on 08-28, the monitoring petition. A copy of the 08-13 order is attached along with attendant correspondence.
8. **Supreme Court Order 09-06, in the matter of the petition to amend SCR 10.04(1) to permit non-resident members to serve as certain officers of the State Bar of Wisconsin (Attachment R)**
At its May 2009 meeting, the Board of Governors voted by a greater than 60 percent majority to support the petition of the Non-Resident Lawyers Division to permit non-resident members of the State Bar to serve as treasurer, secretary, and as chairperson of the Board. The Supreme Court has set a public hearing for November 2, 2009 on this petition. Attached is a copy of the order and the petition for your information.
9. **Supreme Court Order 07-11A (2009 WI 63), in the matter of the petition to create a rule governing the discretionary transfer of cases to tribal court (Attachment S)**
For your information, attached is an order amending selected language in 2008 WI 114 governing transfer of cases to tribal court.
10. **Supreme Court Order 08-03 (2009 WI 62), in the matter of amendment to SCR 20:1.15 Safekeeping property; trust accounts and fiduciary accounts (Attachment T)**
For your information, attached is an order establishing comparable interest provisions for IOLTA accounts beginning January 1, 2010.

11. **Report of Wisconsin Delegates to the ABA House of Delegates (Attachment U)**
Attached for your information is the report of the Wisconsin delegates to the ABA House of Delegates for the Mid-Year Meeting held in Chicago in August, 2009.
12. **ABA House of Delegates Daily Journal (Attachment V)**
Attached for your information is the daily journal of the ABA House of Delegates for the Mid-Year Meeting held in Chicago in August, 2009.

#####